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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,640	03/29/2004	Chip E. Thomson	THMC:015US	4964
32425	7590	10/28/2005	EXAMINER	
FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. SUITE 2400 AUSTIN, TX 78701			SANDY, ROBERT JOHN	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/813,640

Applicant(s)

THOMSON ET AL.

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 12,13,18-20,32 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,14,15,18,19,21,22,24,28-30,33-36,38 and 42-44 is/are rejected.
- 7) ☒ Claim(s) 6-9,16,17,23,25-27,31,37,39-41 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/29/04 & 4/1/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: approv'd drwg sheet.

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Species XII in the reply filed on 29 August 2005 is acknowledged. Claims 12, 13, 18-20, 32, and 46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 29 August 2005. Applicant's note regarding the Species V figures as being part of Species IV is acknowledged and found persuasive. Therefore, figures 17-28O are considered as a single species.

### *Drawings*

The replacement drawing sheet received on 01 April 2005 has been approved for entry.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 14, 15, 18, 19, 21, 22, 24, 28-30, 33-36, 38, and 42-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Demarest, Jr. (U. S. Patent No. 4,735,438). Demarest, Jr. ('438) discloses a clip having two ends (at 32) and a leverage bump (structure including 22, 34); and an arm (40) pivotally coupled to each end; where one of the arms contacts (see Fig. 7) the leverage bump when the clip is opened;

(concerning claim 2) the leverage bump includes two outer portions (34) and a middle portion (22), and the two outer portions protrude more outwardly from the clip than the middle portion;

(concerning claim 3) the clip has two leverage bumps (34), and each arm contacts (see Fig. 7) a leverage bump when the clip is opened;

(concerning claim 4) each leverage bump includes two outer portions (34) and a middle portion (2), and the two outer portions of each leverage bump protrude more outwardly from the clip than the middle portion;

(concerning claim 5) each arm includes two hinge elements (52) separated by two slots and a middle segment, and each hinge element has an elongated segment and a hinge segment;

(concerning claim 9) each arm has a widest portion (measured between ends of 52: Fig. 9) and the clip has a widest portion (measures between ends 32; see Fig. 9), and the widest portions of the arms and the clip have substantially the same width;

(concerning claim 10) the widest portion of each arm is positioned near the widest portion of the clip;

(concerning claim 11) each arm includes an indentation (indentation at the juncture of a straight portion of handle 40 and the ring-shaped portion of handle 40; see Fig. 5);

(concerning claim 14) the clip has a receiving portion (22) and holding portion (26), the receiving portion including an arch (arch shaped 22; See Fig. 3); and arms (40);

(concerning claim 15) the clip has two leverage bumps (34), and each arm contacts (see Fig. 7) a leverage bump when the clip is opened;

(concerning claim 18) each arm has a widest portion (measured between ends of 52: Fig. 9) and the clip has a widest portion (measures between ends 32; see Fig. 9), and the widest portions of the arms and the clip have substantially the same width;

(concerning claim 19) the widest portion of each arm is positioned near the widest portion of the clip;

(concerning claim 21) Demarest, Jr. ('438) discloses a device comprising: a clip (20) having two hinges (54) positioned beside each other, each hinge having two outer open ends (see Fig. 9); and an arm (40) pivotally coupled to each hinge, each arm including two hinge segments (52) that are positioned at least partially within the two outer open ends of each hinge, one of the hinge segments having a non-circular cross-sectional profile (a transverse cross section would result in a non-circular cross-sectional profile); the device being sized to hold one or more of paper, cards and a wallet;

(concerning claim 22) the clip having a leverage bump (34) positioned such that one of the arms contacts the leverage bump when the clip is opened (see Fig. 7);

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(concerning claim 24) the clip having two leverage bumps, and each arm contacts a leverage bump when the clip is opened;

(concerning claim 28) each arm has a widest portion (measured between ends of 52: Fig. 9) and the clip has a widest portion (measures between ends 32; see Fig. 9), and the widest portions of the arms and the clip have substantially the same width;

(concerning claim 29) the widest portion of each arm is positioned near the widest portion of the clip;

(concerning claim 30) each arm includes an indentation (indentation at the juncture of a straight portion of handle 40 and the ring-shaped portion of handle 40; see Fig. 5);

(concerning claim 33) the clip that is not substantially triangular in shape when in an empty closed position (see Figs 3-6), the clip having two ends; and an arm (40) pivotally coupled to each end; the device being sized to hold one or more of paper, cards and a wallet;

(concerning claim 34) each end having a hinge (54) to which an arm is pivotally coupled;

(concerning claim 35) each arm including two hinge segments (52) that are positioned at least partially within the hinge to which that arm is pivotally coupled, one of the hinge segments having a non-circular cross-sectional profile (a transverse cross section would result in a non-circular cross-sectional profile);

(concerning claim 36) the clip having a leverage bump (34) positioned such that one of the arms contacts the leverage bump when the clip is opened;

(concerning claim 38) the clip having two leverage bumps (34), and each arm contacts a leverage bump when the clip is opened (see Fig. 7);

(concerning claim 42) each arm has a widest portion (measured between ends of 52: Fig. 9) and the clip has a widest portion (measures between ends 32; see Fig. 9), and the widest portions of the arms and the clip have substantially the same width;

(concerning claim 43) the widest portion of each arm is positioned near the widest portion of the clip; and

(concerning claim 44) each arm includes an indentation (indentation at the juncture of a straight portion of handle 40 and the ring-shaped portion of handle 40; see Fig. 5).

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Claims 33 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Lorber (U. S. Patent No. 4,802,263). Lorber ('263) discloses a device comprising: a clip (11) that is not substantially triangular in shape when in an empty closed position, the clip having two ends (at respective edges 14); and an arm (22) pivotally coupled to each end; the device being sized to hold one or more of paper, cards and a wallet; and (concerning claim 47) each arm being a non-wire frame arm.

#### *Allowable Subject Matter*

Claims 6-9, 16, 17, 23, 25-27, 31, 37, 39-41, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ROBERT J. SANDY  
PRIMARY EXAMINER

Robert J. Sandy  
Primary Examiner  
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REPLACEMENT SHEET



FIG. 23

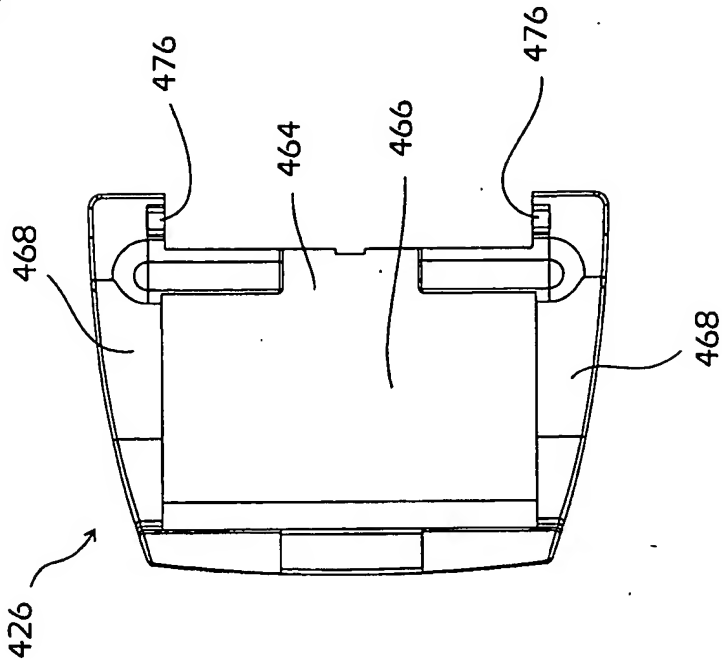
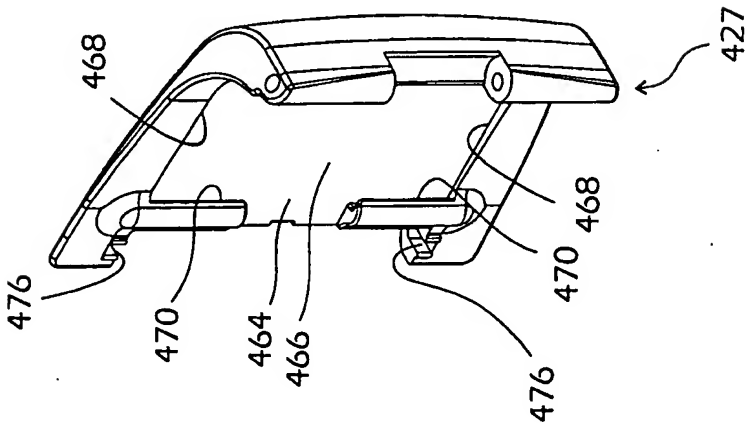


FIG. 24



*Approved & Signed*